

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

SUBJECT FACEBOOK ACCOUNTS Associated
with Users: "Priscilla Zavala", User ID: 515490681
and "Smithn Wesson", User ID: 100036000871254

Case No. MJ20-517

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

The SUBJECT ACCOUNTS further described in Attachment A, attached hereto and incorporated herein by this reference.

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, attached hereto and incorporated herein by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

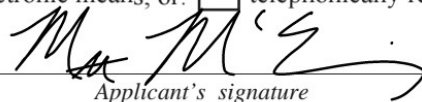
Code Section	Offense Description
Title 18, U.S.C. § 113(a)(6)	Assault
Title 18, U.S.C. § 2111	Resulting in Serious Bodily Injury
Title 18, U.S.C. § 1153(a)	Conspiracy to Commit Robbery
	Offenses Committed in Indian Country

The application is based on these facts:

- ☒ See attached Affidavit Special Agent Matthew McElhiney continued on the attached sheet.

- ☒ Delayed notice of 45 days (give exact ending date if more than 30 days: 11/09/2020) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Pursuant to Fed. R. Crim. P. 4.1, this warrant is presented: ☒ by reliable electronic means; or: ☐ telephonically recorded.


Applicant's signature

Special Agent Matthew McElhiney, FBI
Printed name and title

- ☐ The foregoing affidavit was sworn to before me and signed in my presence, or
☒ The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone.



Judge's signature

Date: 08/11/2020

City and state: Seattle, Washington

Hon. Mary Alice Theiler, U.S. Magistrate Judge
Printed name and title

ATTACHMENT A

DESCRIPTION OF LOCATION TO BE SEARCHED

This warrant applies to information associated with the following Facebook accounts (FACEBOOK ACCOUNTS):

FACEBOOK ACCOUNT

Display Name: Priscilla Zavala

Vanity Name: zavala91

User ID#: 515490681

FACEBOOK ACCOUNT

Display Name: Smithn Wesson

Vanity Name: smithn.wesson.9041

User ID#: 100036000871254

As well as other subscriber and log records associated with the accounts, which are stored at premises owned, maintained, controlled, and operated by Facebook, Inc., an electronic communications service and remote computing services provider headquartered at 1601 Willow Road, Menlo Park, California, 94025.

For the Priscilla Zavala account, the warrant is limited to the above-referenced information for the time period from February 1, 2019 through the present. For the Smithn Wesson account, the warrant is limited to the above-referenced information for the time period from April 15, 2019 through the present.

ATTACHMENT B**I. INFORMATION TO BE DISCLOSED**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, Inc., including any communications, records, files, logs, posts, payment records, or information that has been deleted but is still available to Facebook, or has been preserved pursuant to requests made under 18 U.S.C. § 2703(f) on or about May 28 and June 11, 2020, Facebook is required to disclose the following information to the government for each account or identifier listed in Attachment A:

- (a) All contact information, including full name, user identification number, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers;
- (b) All Photoprints, including all photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;
- (c) All Neoprints, including profile contact information; Mini-Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (d) All other communications and messages made or received by the user, including all private messages and pending "Friend" requests;
- (e) All IP logs, including all records of the IP addresses that logged into the account(s) and associated geolocation data;
- (f) All information about the user's access and use of Facebook Marketplace;
- (g) The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the

1 service (including any credit or bank account number;

2 (h) All privacy settings and other account settings;

3 (i) All records pertaining to communications between Facebook and any person
4 regarding the user or the user's Facebook account, including contacts with
5 support services and records of actions taken.

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II. INFORMATION TO BE SEIZED BY THE GOVERNMENT

All information described above in Section I that constitutes fruits, contraband, evidence and instrumentalities of violations of 18 U.S.C. § 1510 (Obstruction of Criminal Investigations), 18 U.S.C. § 113(a)(3) (Assault Resulting in Serious Bodily Injury), 18 U.S.C. § 1153(a) (Offenses Committed in Indian Country), 18 U.S.C. §§ 371 and 2111 (Conspiracy to Commit Robbery) and 18 U.S.C. § 2111 (Robbery) for each account or identifier listed on Attachment A, including information pertaining to the following matters:

- (a) Records that identify any persons who use or access the account specified, or who exercise in any way any dominion or control over the same, including geolocation data associated with such use or access;
- (b) Records that identify associates of the account specified;
- (c) Records relating to the identity of the shooter (also known as “Strap”); and
- (d) Records (including messages, posts, notes, drafts, photographs, videos, or other documents) relating to the relationship between Priscilla Zavala, Dennis Peltier, Mariah Boudrieau, John Doe, Joseph Sam, and/or the user of the Facebook account named “Smithn Wesson,” as well as communications and posts between or amongst any of the same and communications and posts related to the assault and robbery of John Doe that occurred at Unit B on or about February 6, 2019;
- (e) Records related to the location or whereabouts of Priscilla Zavala, Dennis Peltier, Mariah Boudrieau, John Doe, Joseph Sam, and/or the user of the Facebook account named “Smithn Wesson,” from February 1, 2019 through May 31, 2019; and
- (f) Records identifying devices used to connect to or access Facebook services during the requested time period.

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1 This warrant authorizes a review of the electronically stored data,
2 communications, or other records and information seized, copied or disclosed pursuant to
3 this warrant in order to locate evidence, fruits, and instrumentalities described in this
4 warrant. The review of this electronic data may be conducted by any government
5 personnel assisting in the investigation, who may include, in addition to law enforcement
6 officers and agents, attorneys for the government, attorney support staff, and technical
7 experts. Pursuant to this warrant, the FBI may deliver a complete copy of the seized,
8 copied or disclosed electronic data to the custody and control of attorneys for the
9 government and their staff.

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AFFIDAVIT

STATE OF WASHINGTON)
COUNTY OF KING) ss

1. I, Matthew McElhiney, a Special Agent with the Federal Bureau of Investigation, having been duly sworn, state as follows:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

2. I make this Affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant for information associated with the following accounts: Facebook User ID 515490681, Account/Username Priscilla Zavala; and Facebook User ID 100036000871254, Account/Username Smithn Wesson (the "FACEBOOK ACCOUNTS"), as more fully described in Attachment A, that are stored at the premises controlled by Facebook, Inc., a social media platform headquartered at 1601 Willow Road, Menlo Park, CA 94025.

3. The Federal Bureau of Investigation is conducting an investigation into whether certain individuals described below committed or have information regarding violations of 18 U.S.C. § 1510 (Obstruction of Criminal Investigations), 18 U.S.C. § 113(a)(6) (Assault Resulting in Serious Bodily Injury), 18 U.S.C. § 1153(a) (Offenses Committed in Indian Country), 18 U.S.C. §§ 371 and 2111 (Conspiracy to Commit Robbery) and 18 U.S.C. § 2111 (Robbery). As described herein, there is probable cause to believe that the FACEBOOK ACCOUNTS contain evidence of these crimes.

4. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A) to require Facebook, Inc. to disclose to the government copies of the information (including the content of communications) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

1 5. This warrant and affidavit are being presented electronically pursuant to
2 Federal Rules of Criminal Procedure Rule 4.1.

3 **II. AFFIANT BACKGROUND**

4 6. I am a Special Agent with the Federal Bureau of Investigation (FBI) and
5 have been so employed since August of 2016. I am assigned to the Everett Resident
6 Agency of the Seattle Division and the FBI's Northwestern Safe Trails Task Force. Part
7 of my responsibilities as a Special Agent include investigations involving violent crimes
8 on Indian reservations in northwestern Washington, including the Tulalip Indian
9 Reservation (Tulalip). As a Special Agent, I have led and/or participated in
10 investigations of a wide array of federal criminal violations, including assaults, crimes
11 against children, firearms, fraud, fugitives, narcotics, rape, robberies, and crimes
12 occurring in Indian Country. During these investigations, I have participated in the
13 execution of search warrants and the seizure of evidence of criminal activity.

14 7. Prior to becoming a Special Agent, I completed twenty and a half weeks of
15 special agent training at the FBI Academy in Quantico, Virginia. My training has
16 included courses in law enforcement techniques, federal criminal statutes, conducting
17 complex criminal investigations, physical and electronic surveillance techniques,
18 evidence collection techniques and the execution of search warrants.

19 8. The facts set forth in this Affidavit are based on my own personal
20 knowledge; knowledge obtained from other individuals during my participation in this
21 investigation, including other law enforcement officers; review of documents and records
22 related to this investigation; communications with others who have personal knowledge
23 of the events and circumstances described herein; and information gained through my
24 training and experience.

25 9. Because this Affidavit is submitted for the limited purpose of establishing
26 probable cause in support of the application for a search warrant, it does not set forth
27 each and every fact that I or others have learned during the course of this investigation. I
28 have set forth only the facts that I believe are relevant to the determination of probable

1 cause to believe that evidence, fruits, and instrumentalities of violations of 18 U.S.C.
 2 § 1510 (Obstruction of Criminal Investigations), 18 U.S.C. § 113(a)(6) (Assault
 3 Resulting in Serious Bodily Injury), 18 U.S.C. § 1153(a) (Offenses Committed in Indian
 4 Country), 18 U.S.C. §§ 371 and 2111 (Conspiracy to Commit Robbery) and 18 U.S.C.
 5 § 2111 (Robbery), will be found in the FACEBOOK ACCOUNTS.

6 **III. SUMMARY OF INVESTIGATION**

7 10. In the late hours of February 6, 2019, the Tulalip Police Department (TPD)
 8 responded to a report of a gunshot victim at Unit B of a residential address that is located
 9 within the exterior boundaries of the Tulalip Indian Reservation. TPD arrived at the
 10 scene and found John Doe (Doe) conscious, lying on the ground outside Unit B near the
 11 front door. Before being transported for treatment, Doe told TPD that he had been shot in
 12 the back by an unknown native-looking male during a drug deal at Unit B.

13 11. Inside Unit B, TPD found the homeowner, who stated that she and her son,
 14 Dennis Peltier (PELTIER), had been at the house that night, along with a white female,
 15 whom she described as around thirty years old with blonde hair, and whom she believed
 16 was there with her son.

17 12. During subsequent interviews at the hospital, Doe told TPD he had been
 18 contacted by his ex-girlfriend Mariah Boudrieau (BOUDRIEAU), who had arranged for
 19 Doe to come to Unit B to sell narcotics. Doe was to bring an ounce of heroin to the
 20 house and sell it to a native male named Dennis for \$1,200.00. Doe went to the house in
 21 his white Ford Expedition with a friend with the initials J.G. Doe arrived at UNIT B and
 22 met with BOUDRIEAU and Dennis. Doe explained that during the transaction, a native
 23 male (not the same person as Dennis) came through the front door waving a revolver,
 24 demanding the narcotics. Doe and the man fought briefly. Doe attempted to leave, but
 25 BOUDRIEAU tried to stop him. Doe pushed her to the side while trying to get away, but
 26 he was shot in the back by the man. Doe stated that BOUDRIEAU was right next to him
 27 when he was shot. Doe collapsed in the doorway of the house, unable to move his legs.
 28 Once on the ground, BOUDRIEAU began rifling through Doe's pockets, asking him

1 where the heroin was. According to Doe, he pleaded with BOUDRIEAU for help, stating
2 that he was paralyzed. BOUDRIEAU responded by asking: “What concern is that of
3 mine?” After finding the ounce of heroin Doe had on him and approximately \$300 in
4 cash, BOUDRIEAU and the man fled the residence, taking with them Doe’s money and
5 iPhone 7. Doe said that he pleaded with Dennis to call for help, but Dennis refused and
6 ran away. Doe believed BOUDRIEAU and Dennis had conspired together to commit the
7 robbery.

8 13. As a result of the gunshot wound to his back, Doe suffered spinal cord
9 injury causing paralysis in his lower body. Medical staff determined that due to the
10 bullet’s trajectory and Doe’s neurologic status, the bullet could not be removed safely at
11 the present time.

12 14. On February 8, 2019, officers arrested PELTIER and transported him back
13 to TPD, where he was interviewed after waiving his *Miranda* rights. During the
14 interview, PELTIER eventually admitted that he had agreed with BOURDIEAU to do the
15 robbery. PELTIER denied knowing the identity of the shooter.

16 15. During subsequent interviews of PELTIER on February 13, 2019,
17 PELTIER reiterated that he did not know the shooter’s name, but said that BOURDIEAU
18 had called him “Strap”. PELTIER also admitted that BOURDIEAU had told him
19 beforehand that “Strap” would be waiting outside and would then come inside to take the
20 heroin. PELTIER explained that the plan was for him to act as the purported buyer when
21 Doe came to sell the heroin, and said that he sent his son to take a shower before Doe
22 arrived. PELTIER said that once Doe arrived with the heroin, he went into the kitchen
23 and was pretending to look for money when he heard a scuffle and then a pop.¹

24 16. TPD Detective David Sallee maintains a covert Facebook account, which
25 has an established friend network of people associated with the Tulalip reservation and
26

27
28 ¹ During the course of the investigation, PELTIER also told law enforcement officers about rumors he heard while
in custody at the Snohomish County Jail, including the purported name and a different nick name of the shooter, as
he was told by other inmates. Law enforcement quickly discredited this information.

1 surrounding areas. On February 8, 2019, shortly after the robbery and shooting occurred,
2 Detective Sallee used Facebook to see if there were any Facebook friends that
3 BOUDRIEU and PELTIER had in common. Detective Sallee only identified one such
4 account—a Facebook user with the name “Streezy NW” and a nickname of “Strap”. The
5 account for “Streezy NW” had pictures of a thin, native male wearing silver rings,
6 possibly with faded finger tattoos. One of the pictures of “Streezy NW” showed that he
7 had a tattoo on his back that said “Upper Skagit”. Detective Sallee sent photos of
8 “Streezy NW” to the Upper Skagit Police Department and the Lummi Nation Police
9 Department, and identified him as JOSEPH E. SAM, an enrolled member of the Upper
10 Skagit Tribe. Detective Sallee learned that SAM is known on these reservations as
11 “Strap,” and determined that SAM had outstanding warrants for his arrest and prior
12 convictions in the Tulalip Tribal Court. Detective Sallee later went back to the “Streezy
13 NW” Facebook account and saw that “Streezy NW” had removed all of his photos and
14 unfriended BOUDRIEU.

15 17. On March 20, 2019, United States Magistrate Judge Mary Alice Theiler
16 issued a search warrant for information in the Facebook accounts of PELTIER and
17 BOUDRIEU. Upon review, the records returned by Facebook revealed a Facebook
18 messenger conversation thread between the account associated with BOUDRIEU and
19 the account associated with SAM, “Streezy NW”. The conversation thread begins in
20 early July 2018 and continues through February 2019. Towards the beginning of the
21 conversation on Facebook, in July 2018, Streezy NW sent BOUDRIEU a photo
22 depicting a native male taking a photograph standing in front of a mirror. Detective
23 Sallee viewed this image and recognized the individual as SAM.

24 18. On May 15, 2019, officers arrested SAM and transported him back to TPD,
25 where he was interviewed after waiving his *Miranda* rights. During the interview, SAM
26 denied involvement in the robbery or the assault, stating he was in Bellingham at the
27 time. SAM stated that he previously had been questioned by a Tulalip gaming official,
28 who mistakenly identified him. SAM stated that the gaming official had been looking for

1 another man who looked identical to him except for a scar. SAM believed this other
2 individual was likely the one involved in the robbery and assault. When questioned
3 about the “Streezy NW” Facebook account, SAM denied that the account was his. When
4 asked about the photos and other personal information concerning him on the account,
5 SAM stated that someone else must have created the account and posted that information,
6 pretending to be him, possibly trying to implicate him in the crimes.

7 19. On May 22, 2019, United States Magistrate Judge Michelle L. Peterson
8 issued a search warrant for information in the “Streezy NW” Facebook account and a
9 second account law enforcement had identified as likely connected to the incident,
10 “Captian Kachuckles”.

11 20. The documents provided by Facebook for the “Streezy NW” account show
12 that the account was deactivated on or about April 15, 2019, and closed on or about June
13 11, 2019. A review of the account also revealed a string of messages between “Streezy
14 NW” and “Priscilla Zavala” discussing narcotics trafficking and “Streezy NW’s” location
15 in the days following the assault and robbery.

16 21. I know from recorded calls from the Federal Detention Center where he is
17 in custody pending trial, that between August 20, 2019, and March 16, 2020, SAM
18 discussed Priscilla Zavala multiple times. SAM stated on December 9, 2019, and in
19 subsequent calls, that he was with Priscilla Zavala on the night of the shooting.

20 22. Furthermore, I know from recorded calls from the Federal Detention Center
21 that SAM has told other individuals about another of his Facebook accounts with the
22 username “Smithn Wesson”. For instance, on August 19, 2019, SAM requested that his
23 cousin post on his “Smithn Wesson” Facebook page that SAM is being held at the
24 Federal Detention Center. On December 9, 2019, on a recorded call from the Federal
25 Detention Center, SAM talked to a friend about his “Smithn Wesson” Facebook
26 Messenger account, and asked his friend to look in that account for Priscilla Zavala
27 stating, “Priscilla is going to be my—I was with her that night.”
28

1 23. On May 29, 2020, Magistrate Judge Mary Alice Theiler signed orders,
2 pursuant to Title 18, United States Code, Section 2703(d), compelling production of non-
3 content records associated with certain Facebook target accounts. These target accounts
4 included Account/Username "Smithn Wesson" and Account/Username "Priscilla
5 Zavala".

6 24. The FBI and TPD located an individual by the name of Priscilla Zavala,
7 who confirmed that she is the Priscilla Zavala whose Facebook account communicated
8 with the "Streezy NW" Facebook account in 2019. The FBI interviewed Zavala on July
9 1, 2020. Zavala stated that she did not know the full name of the person who used the
10 "Streezy NW" Facebook account, just his nickname, "Strap". Zavala identified Strap as
11 SAM through a picture of SAM shown to her by the FBI, and said that she met SAM at
12 some point in 2018 and the two of them frequented casinos together because they were
13 homeless. After reviewing Facebook messages between her and SAM to refresh her
14 recollection, Zavala stated that between February 6 and February 8, 2020, she was in and
15 around Marysville, Washington. Although she was in communication with SAM through
16 Facebook during this time period, she did not meet up with him. Zavala also stated that
17 she has not had any communication with SAM since his arrest, but she believes his
18 cousin posted something on Facebook about how to contact SAM in jail. Zavala said that
19 she has not previously been contacted about this case.

20 25. On July 6, 2020, Facebook provided the business records requested
21 pursuant to the May 29, 2020, Section 2703(d) orders.

22 26. The Facebook business records for the "Priscilla Zavala" account included
23 information from January 2019 to July 2020; however, the records did not show any
24 communications between the "Priscilla Zavala" account and the "Streezy NW" account,
25 despite the fact that the records for the "Streezy NW" account included such
26 conversations. Based on my training and experience, I believe that Priscilla Zavala likely
27 deleted her messages with SAM on the "Streezy NW" account (the messages that
28

1 appeared in the records produced by Facebook for the “Streezy NW” account) before I
2 submitted a preservation request to Facebook on or about May 28, 2020.

3 27. The Facebook business records for the “Smithn Wesson” account show that
4 the account was created on or about April 19, 2019.² The only registered name provided
5 for the “Smithn Wesson” account was “Smithn Wesson”. The only registered email
6 address for the “Smithn Wesson” account is “streezynw@gmail.com”.

7 28. The records showed multiple communications between “Priscilla Zavala”
8 and “Smithn Wesson” beginning on or about April 26, 2019 (one week after the “Smithn
9 Wesson” page was registered) and continuing until on or about May 12, 2019 (three days
10 before SAM’s arrest).

11 29. On July 28, 2020 and again on August 6, 2020, TPD Detective David
12 Sallee viewed publically posted information on the Smithn Wesson Facebook page. The
13 face of the person in the Smithn Wesson Facebook profile picture is obscured by a hat
14 and indistinguishable. The Smithn Wesson account self-reports that the user was born in
15 2002 (Sam’s actual year of birth is 1977 and the date and month listed on Facebook are
16 not the same as his actual date of birth), but lists Omak as the user’s hometown and states
17 the user attended Chemawa Indian School. Facebook returns for SAM’s Streezy NW
18 Facebook also show the user’s hometown as Omak and that the user attended the
19 Chemawa Indian School.

20 30. Based on the above information, I believe it is likely that records from the
21 FACEBOOK ACCOUNTS will contain information on Zavala’s whereabouts during the
22 relevant time period during which the assault and robbery occurred. Because SAM is
23 alleging that he was with Zavala at the time the crimes were committed, Zavala’s location
24 during this time period is of paramount importance to the investigation. These records
25 will also contain communications between Zavala and SAM before and after the robbery
26 and assault, which may include discussions about Zavala and SAM’s location during the
27

28 ² As noted above, the “Streezy NW” Facebook account was deactivated on or about April 15, 2019, and closed on or about June 11, 2019.

1 relevant time period, all of which are relevant to SAM's role in the offenses. I also
2 believe it is likely that these records will contain communications made to Zavala on
3 behalf of SAM by other individuals after SAM was arrested in May of 2019, and that the
4 records may contain information relevant to an attempt by SAM or others on his behalf to
5 obstruct the criminal investigation by creating a false alibi or otherwise discussing or
6 creating false evidence. For the "Priscilla Zavala" account, I therefore seek records from
7 Facebook for the time period February 1, 2019 through the present because the robbery
8 and assault occurred in early February of 2019. For the "Smithn Wesson" account, I am
9 seeking records from Facebook from April 15, 2019 (a few days before the account was
10 created) through the present.

11 **IV. BACKGROUND REGARDING FACEBOOK'S SERVICES**

12 31. Facebook, Inc. owns and operates the free-access social networking website
13 Facebook.com, accessed at <http://www.facebook.com>. Facebook allows its subscribers to
14 establish personal accounts. Subscribers can then use their accounts to share written
15 news, communications, photographs, videos, and other information with other Facebook
16 users, and sometimes with the general public; to purchase and sell things, play games,
17 and engage in numerous additional computer based activity.

18 32. A Facebook subscriber typically creates a personal profile using photos of
19 him/herself and a name or nickname their friends and family know. This permits friends
20 and family to find the subscriber's account. Facebook asks subscribers to provide basic
21 contact information. This may include the subscriber's full name, birth date, contact e-
22 mail addresses, physical address (city, state, zip code, country), telephone numbers,
23 screen names, associated websites, and other personal identifiers. Subscribers can list
24 credit, debit or other financial account numbers for use when making purchases on or
25 through Facebook. Facebook also asks subscribers to create an account password. The
26 password, known only to the subscriber (and anyone to whom s/he gives it) limits access
27 to the account. Only someone logged in with the password can change profile details,
28

1 profile photographs or privacy settings.³ Only a person who has logged into the account
 2 with a password can post on the “Wall,”⁴ send messages (similar to text messaging), or
 3 send friend requests under the identity of the account owner. It is my understanding that
 4 Facebook subscribers rarely share the password to their accounts. There is little purpose
 5 in sharing passwords, because anyone whom the account owner permits can post
 6 messages on the user’s “Wall.”

7 33. Subscribers can select different levels of privacy for the communications
 8 and information associated with their Facebook accounts. By adjusting these privacy
 9 settings, a subscriber can make profile information, status updates, check-ins, and other
 10 posted material available only to himself or herself, to particular Facebook users, to all
 11 Facebook users, or to anyone with access to the Internet, including people who are not
 12 Facebook users.

13 34. Facebook subscribers can create personal profiles that include photographs,
 14 personal statistics such as birthdate, schooling, employer, lists of personal interests, and
 15 other information. Subscribers can also post “check-ins”⁵ and “status updates” about
 16 their whereabouts and actions, as well as links to videos, photographs, articles, and other
 17 items available elsewhere on the Internet. Facebook subscribers can also post
 18 information about upcoming “events,” such as social occasions, by listing the event’s
 19 time, location, host, and guest list.

20 35. A subscriber can also connect directly with individual Facebook users by
 21 sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the
 22 request, then the two users will become “Friends” for purposes of Facebook and can
 23 exchange communications or view information about each other. Each Facebook user’s
 24 account includes a list of that user’s “Friends” and a “News Feed,” which highlights
 25

26 ³ Subscribers must also be logged into their accounts to make purchases, post ads, make comments, adjust
 27 notifications they receive and to change other aspects of their accounts.

28 ⁴ A “Wall” in a particular subscriber’s Facebook page is a space where the subscriber and his or her “Friends” (if
 permitted by the subscriber) can post and respond to status updates, check-ins, messages, images, attachments, and
 links.

⁵ A “check-in” accesses the user’s mobile device GPS to let friends know exactly where the subscriber is.

1 information about the user's "Friends," such as status updates, check-ins, profile changes,
2 and upcoming events. Subscribers may also join groups or networks to connect and
3 interact with other users who are members of the same group or network. A Facebook
4 network or group has options for adjusting privacy settings to grant or limit viewing or
5 posting to the group's page.

6 36. In Facebook's Photos application, subscribers can upload an unlimited
7 number of albums and photos. The Photos application can capture and store a geometric
8 representation of a face (known as Faceprint data). Subscribers can "tag" (i.e., label)
9 other Facebook users depicted in a photo or video. When a user is tagged in a photo or
10 video, he or she receives a notification of the tag and a link to see the photo or video.

11 37. For Facebook's purposes, a subscriber's "Photoprint" includes all photos
12 uploaded by that subscriber that have not been deleted, as well as all photos uploaded by
13 any user that have that subscriber tagged in them. As uploaded, a digital photo often
14 contains embedded data about when and where it was taken, and other information on its
15 genesis. That information is called Exchangeable image file format (EXIF) information.
16 Facebook "scrapes" this information off of photos before placing them onto a page, but
17 retains the original data.

18 38. Facebook users can exchange private messages on Facebook with other
19 users. These messages, which are similar to e-mail messages, are sent to the recipient's
20 "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well
21 as other information. Facebook users can also post comments on the Facebook profiles
22 of other users or on their own profiles; such comments are typically associated with a
23 specific posting or item on the profile.

24 39. Facebook captures and retains, for each subscriber account, data regarding
25 the date, time, place, and IP addresses (IP Logs) used when the subscriber accesses
26 his/her account; actions taken and items viewed while using the account; and subscriber
27 geographic location, if that setting is enabled. This data cannot be manipulated by the
28 subscriber. Facebook also retains, and makes available to the account subscriber, all

1 information contained in Appendix A, attached and incorporated by reference. Material
2 posted by the subscriber is retained by Facebook until sometime after it is deleted by the
3 subscriber.

4 40. In Facebook jargon,

5 • Subscriber “Basic Contact Information” includes subscriber, name,
6 birth date, email address(es), physical address (city, state, zip, country), all telephone
7 numbers, screen name and any associated website;

8 • “Basic Subscriber Information (BSI)” is the subscriber’s
9 identification number, name, email address, date and time stamp of account creation,
10 registered cellular telephone number, record of recent logins, and whether the
11 subscriber’s page is publicly viewable; and

12 • A “Neoprint” is an expanded view of a given subscriber profile. It
13 includes subscriber profile contact information, friend lists; groups and networks of
14 which the subscriber is a member; “News Feed” information; “Wall” postings; status
15 updates; links to videos, photographs, articles, and other items; event postings; rejected
16 “Friend” requests; comments; messages; gifts; pokes; tags; and information about the
17 subscriber’s access and use of Facebook applications.

18 41. Facebook subscribers may communicate directly with Facebook about
19 issues relating to their account, such as technical problems, billing inquiries, or
20 complaints from the subscriber or other users. Social networking providers like
21 Facebook typically retain records about such communications, including records of
22 contacts between the subscriber and the provider’s support services, as well records of
23 any actions taken by the provider or subscriber as a result of the communications.

24 42. The company that operates Facebook.com is Facebook, Inc. Facebook, Inc.
25 has established a contact address for Law Enforcement and has asked law enforcement to
26 serve warrants either by using a website that Facebook has set up for use by law
27 enforcement, or by postal mail. Law enforcement regularly uses these to contact
28 Facebook.

V. INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

43. Pursuant to Title 18, United States Code, Section 2703(g), this application and affidavit for a search warrant seeks authorization to permit Facebook, and its agents and employees, to assist agents in the execution of this warrant. Once issued, the search warrant will be presented to Facebook with direction that the company identify the FACEBOOK ACCOUNTS described in Attachment A to this affidavit, as well as other subscriber and log records associated with the account, as set forth in Section I of Attachment B to this affidavit.

44. The search warrant will direct Facebook to create an exact copy of the specified accounts and records.

45. I, and/or other law enforcement personnel assisting with the investigation, will thereafter review the copy of the electronically stored data, and identify from among that content those items that come within the items identified in Section II to Attachment B, for seizure.

46. Analyzing the data contained in the forensic image may require special technical skills, equipment, and software. It could also be very time-consuming. Searching by keywords, for example, can yield thousands of “hits,” each of which must then be reviewed in context by the examiner to determine whether the data is within the scope of the warrant. Merely finding a relevant “hit” does not end the review process. Keywords used originally need to be modified continuously, based on interim results. Certain file formats, moreover, do not lend themselves to keyword searches, as keywords, search text, and many common e-mail, database and spreadsheet applications do not store data as searchable text. The data may be saved, instead, in proprietary non-text format. And, as the volume of storage allotted by service providers increases, the time it takes to properly analyze recovered data increases, as well. Consistent with the foregoing, searching the recovered data for the information subject to seizure pursuant to this warrant may require a range of data analysis techniques and may take weeks or even months. All forensic analysis of the data will employ only those search protocols and

1 methodologies reasonably designed to identify and seize the items identified in Section II
2 of Attachment B to the warrant.

3 47. Based on my experience and training, and the experience and training of
4 other agents with whom I have communicated, it is necessary to review and seize a
5 variety of messenger communications, chat logs, files, payment records and documents,
6 that identify any users of the FACEBOOK ACCOUNTS and communications sent or
7 received in temporal proximity to incriminating messages that provide context to the
8 incriminating communications.

9 **VI. PRESERVATION REQUESTS TO FACEBOOK FOR**
10 **THE SUBJECT ACCOUNTS**

11 48. I understand the contents of the FACEBOOK ACCOUNTS can only be
12 obtained, in the Ninth Circuit, by means of a search warrant issued under authority of 18
13 U.S.C. § 2703(a), 2703(b)(1)(A), 2703(c)(1)(A), and Federal Rule of Criminal Procedure
14 41(e)(2)(b). On or about May 28, 2020, the FBI made a preservation request to
15 Facebook, requesting they preserve the content related to the “Priscilla Zavala” account.
16 On or about June 11, 2020, the FBI made a second preservation request to Facebook,
17 requesting they preserve the content related to the “Smithn Wesson” account.

18 **VII. PROTOCOL FOR SORTING SEIZABLE**
19 **ELECTRONICALLY STORED INFORMATION**

20 49. In order to insure agents are limited in their search only to the contents of
21 the FACEBOOK ACCOUNTS and any attachments, stored instant messages, stored
22 voice messages, documents, and photographs associated therewith; in order to protect the
23 privacy interests of other third parties who have accounts at Facebook; and in order to
24 minimize disruptions to normal business operations of Facebook; this application seeks
25 authorization to permit agents and employees of Facebook to assist in the execution of
26 the warrant, pursuant to 18 U.S.C. § 2703(g), as follows:

27 a. The search warrant will be presented to Facebook, with direction
28 that it identify and isolate the FACEBOOK ACCOUNTS and associated records
described in Section I of Attachment B.

1 b. Facebook will also be directed to create an exact duplicate in
2 electronic form of the FACEBOOK ACCOUNTS and associated records specified in
3 Section I of Attachment B, including an exact duplicate of the content including all
4 messages stored in the FACEBOOK ACCOUNTS.

5 c. Facebook shall then provide an exact digital copy of the contents of
6 the FACEBOOK ACCOUNTS, as well as all other records associated with the account,
7 to me, or to any other agent of the FBI. Once the digital copy has been received from
8 Facebook, that copy will, in turn, be forensically imaged and only that image will be
9 reviewed and analyzed to identify communications and other data subject to seizure
10 pursuant to Section II of Attachment B. The original digital copy will be sealed and
11 maintained to establish authenticity, if necessary.

12 d. I, and/or other government personnel assisting in the investigation,
13 will thereafter review the forensic image, and identify from among the content those
14 items which come within the items identified in Section II to Attachment B, for seizure.
15 Items identified for seizure will then be copied to separate media for future use in
16 investigation and prosecution.

17 e. All forensic analysis of the image data will employ only those search
18 protocols and methodologies reasonably designed to identify and seize the items
19 identified in Section II of Attachment B to the warrant.

20 50. This warrant authorizes a review of the electronically stored data,
21 communications, or other records and information seized, copied or disclosed pursuant to
22 this warrant in order to locate evidence, fruits, and instrumentalities described in this
23 warrant. The review of this electronic data may be conducted by any government
24 personnel assisting in the investigation, who may include, in addition to law enforcement
25 officers and agents, attorneys for the government, attorney support staff, and technical
26 experts. Pursuant to this warrant, the FBI may deliver a complete copy of the seized,
27 copied or disclosed electronic data to the custody and control of attorneys for the
28 government and their staff.

VIII. CONCLUSION

51. Based on the foregoing, I believe there is probable cause that evidence, fruits, and instrumentalities of violations of 18 U.S.C. § 1510 (Obstruction of Criminal Investigations), 18 U.S.C. § 113(a)(3) (Assault Resulting in Serious Bodily Injury), 18 U.S.C. § 1153(a) (Offenses Committed in Indian Country), 18 U.S.C. §§ 371 and 2111 (Conspiracy to Commit Robbery) and/or 18 U.S.C. § 2111 (Robbery) are located in the FACEBOOK ACCOUNTS as more fully described in Attachment A to this Affidavit. I therefore request that the Court issue a warrant authorizing a search of the FACEBOOK ACCOUNTS for the information set forth in section I of Attachment B of this Affidavit, and the seizure of the content more fully described in Section II of Attachment B hereto, incorporated herein by reference of any such items found therein.



Matthew C. McElhiney, Affiant
Special Agent
Federal Bureau of Investigation

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on the 11th day of August, 2020.



HON. MARY ALICE THEILER
United States Magistrate Judge

ATTACHMENT A

DESCRIPTION OF LOCATION TO BE SEARCHED

This warrant applies to information associated with the following Facebook accounts (FACEBOOK ACCOUNTS):

FACEBOOK ACCOUNT

Display Name: Priscilla Zavala

Vanity Name: zavala91

User ID#: 515490681

FACEBOOK ACCOUNT

Display Name: Smithn Wesson

Vanity Name: smithn.wesson.9041

User ID#: 100036000871254

As well as other subscriber and log records associated with the accounts, which are stored at premises owned, maintained, controlled, and operated by Facebook, Inc., an electronic communications service and remote computing services provider headquartered at 1601 Willow Road, Menlo Park, California, 94025.

For the Priscilla Zavala account, the warrant is limited to the above-referenced information for the time period from February 1, 2019 through the present. For the Smithn Wesson account, the warrant is limited to the above-referenced information for the time period from April 15, 2019 through the present.

ATTACHMENT B**I. INFORMATION TO BE DISCLOSED**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, Inc., including any communications, records, files, logs, posts, payment records, or information that has been deleted but is still available to Facebook, or has been preserved pursuant to requests made under 18 U.S.C. § 2703(f) on or about May 28 and June 11, 2020, Facebook is required to disclose the following information to the government for each account or identifier listed in Attachment A:

- (a) All contact information, including full name, user identification number, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers;
- (b) All Photoprints, including all photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;
- (c) All Neoprints, including profile contact information; Mini-Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (d) All other communications and messages made or received by the user, including all private messages and pending "Friend" requests;
- (e) All IP logs, including all records of the IP addresses that logged into the account(s) and associated geolocation data;
- (f) All information about the user's access and use of Facebook Marketplace;
- (g) The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the

1 service (including any credit or bank account number;

2 (h) All privacy settings and other account settings;

3 (i) All records pertaining to communications between Facebook and any person
4 regarding the user or the user's Facebook account, including contacts with
5 support services and records of actions taken.

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II. INFORMATION TO BE SEIZED BY THE GOVERNMENT

All information described above in Section I that constitutes fruits, contraband, evidence and instrumentalities of violations of 18 U.S.C. § 1510 (Obstruction of Criminal Investigations), 18 U.S.C. § 113(a)(3) (Assault Resulting in Serious Bodily Injury), 18 U.S.C. § 1153(a) (Offenses Committed in Indian Country), 18 U.S.C. §§ 371 and 2111 (Conspiracy to Commit Robbery) and 18 U.S.C. § 2111 (Robbery) for each account or identifier listed on Attachment A, including information pertaining to the following matters:

- (a) Records that identify any persons who use or access the account specified, or who exercise in any way any dominion or control over the same, including geolocation data associated with such use or access;
- (b) Records that identify associates of the account specified;
- (c) Records relating to the identity of the shooter (also known as “Strap”); and
- (d) Records (including messages, posts, notes, drafts, photographs, videos, or other documents) relating to the relationship between Priscilla Zavala, Dennis Peltier, Mariah Boudrieau, John Doe, Joseph Sam, and/or the user of the Facebook account named “Smithn Wesson,” as well as communications and posts between or amongst any of the same and communications and posts related to the assault and robbery of John Doe that occurred at Unit B on or about February 6, 2019;
- (e) Records related to the location or whereabouts of Priscilla Zavala, Dennis Peltier, Mariah Boudrieau, John Doe, Joseph Sam, and/or the user of the Facebook account named “Smithn Wesson,” from February 1, 2019 through May 31, 2019; and
- (f) Records identifying devices used to connect to or access Facebook services during the requested time period.

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1 This warrant authorizes a review of the electronically stored data,
2 communications, or other records and information seized, copied or disclosed pursuant to
3 this warrant in order to locate evidence, fruits, and instrumentalities described in this
4 warrant. The review of this electronic data may be conducted by any government
5 personnel assisting in the investigation, who may include, in addition to law enforcement
6 officers and agents, attorneys for the government, attorney support staff, and technical
7 experts. Pursuant to this warrant, the FBI may deliver a complete copy of the seized,
8 copied or disclosed electronic data to the custody and control of attorneys for the
9 government and their staff.

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**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS RECORDS
PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)**

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Facebook, and my official title is _____. I am a custodian of records for Facebook. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Facebook, and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;

b. such records were kept in the ordinary course of a regularly conducted business activity of Facebook; and

c. such records were made by Facebook as a regular practice.

I further state that this certification is intended to satisfy Rule 902(11) of the Federal Rules of Evidence.

Date: _____ Signature: _____